



Federal Communications Commission
Washington, D.C. 20554

June 28, 2002

WTB DOCKET
NO. 02-196

John L. Jones
Entranosa Water & Wastewater Association
P.O. Box 2380
Tijeras, NM 87059

Dear Mr. Jones:

Senator Bingaman has forwarded to us your correspondence dated February 26, 2002, regarding the possible licensing of frequencies to i2Way Corp. (i2Way) and requested that we respond directly to the concerns you voiced regarding i2Way having been issued coordination for more than 120 frequencies within a 120 mile radius of Albuquerque and authorization for more than 130 frequencies within a 121 mile radius of Denver. Specifically, you indicate that the licensing of i2Way's requests could have a detrimental effect on the operation of water and wastewater systems for communities in your area and in other areas.

Initially, by way of background, entities such as i2Way seeking authorization to operate on new frequencies must first obtain coordination of proposed frequency use from a Commission certified and authorized frequency coordinator. While these coordinators are certified and authorized by the Commission, they are private entities. Frequency coordinators identify and recommend the most appropriate frequency(ies) to an applicant based upon applicable technical information. The entity seeking the license must then prepare and file with the FCC an application requesting authority from the Commission to operate on the proposed frequencies. This application must comply with a number of rule requirements, and, depending upon the service involved, may be placed on public notice so that interested parties are aware of the filing and may submit petitions to deny or other comments regarding the application.

i2Way has filed a number of applications as well as petitions for declaratory ruling in connection with its applications. The Commission currently is considering the potential effect that facilities such as those requested by i2Way could have on the co-channel and adjacent channel operating environment. Because of the number of frequencies requested by i2Way on many of its applications that propose trunked operation and concerns regarding that use, i2Way has submitted a request for declaratory ruling to the Commission seeking clarification of the trunked system frequency limit in an area. In addition, petitions to deny or informal objections have been submitted to the Commission in connection with some of i2Way's applications. Processing of i2Way's applications that are affected by the requests for declaratory ruling or petitions to deny will not be completed until the issues raised by these pleadings are resolved. In this regard, please be advised that the Commission has rules regulating *ex parte* presentations. *Ex parte* presentations are communications to decision-

making personnel at the Commission that are directed to the merits or outcome of a proceeding. Declaratory ruling requests are classified as permit-but-disclose proceedings and *ex parte* presentations for such proceedings would need to comply with the provisions of Section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b). Moreover, license applications that have been contested through a petition to deny would be considered a restricted proceeding, and service of any presentation (such as a written opposition or an e-mail) to FCC decision-makers in such a proceeding would need to be made to all parties to the proceeding as required by Section 1.1208 of the Commission's rules, 47 C.F.R. § 1.1208.

i2Way's applications that are not affected by the request for declaratory ruling or petitions to deny, however, will continue to be processed consistent with our rules and regulations. If you believe that i2Way's applications were not properly coordinated because complete consideration was not given to the applicable technical information, you may want to discuss your concerns with the frequency coordinator that coordinated i2Way's applications and/or identify those issues explicitly for the Commission. In addition, you could file objections with the Commission with respect to the i2Way applications seeking licenses related to the frequencies coordinated in the Albuquerque area. Finally, the Commission may seek comment on i2Way's petition for declaratory ruling.

I hope that this response has identified the current status of i2Way's application requests and the consideration that will or has been given in processing those requests. Should you have further questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Katherine M. Harris". The signature is written in dark ink and is positioned above the printed name and title.

Katherine M. Harris

Deputy Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

cc: Ms. Marietta Mayfield (office of Senator Jeff Bingaman)

JEFF BINGAMAN
NEW MEXICO

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United States Senate

May 2, 2002

*OBT
Spec Attention
2054*

Mr. Paul A. Jackson
Acting Director
Office of Legislative and Intergovernmental Affairs
Federal Communications Commission
445 12th Street SW, Room 8-C453
Washington, D.C. 20024-2101

Dear Mr. Jackson:

I have received the enclosed letter from John Jones regarding your concerns about current efforts by the Federal Communications Commission (FCC) to issue large-scale two-watt offset frequencies. I would appreciate your assistance in responding to my constituent's concerns. Please look into this matter and report back directly to my constituent with your findings. Also, please provide Marietta Mayfield in my office with a copy of your response.

Thank you for your attention to this matter.

Sincerely,



Jeff Bingaman
United States Senator

JB/mm
Enclosure

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February 26, 2002

Senator Jeff Bingaman
703 Hart Senate Office Building
Washington, DC 20510-3101

Re: Federal Communications Commission & Two Watt Offset Frequencies

Dear Senator Bingaman:

I am writing on an issue dealing with the Commercial Wireless Division of the Federal Communication Commission's Wireless Telecommunications Bureau, and their current efforts to issue large-scale two-watt offset frequencies.

I operate a medium sized, rural, community water system east of Albuquerque, serving approximately seven thousand people (and four schools). We cover a 100 square mile area in the counties of Bernalillo and Santa Fe. I use low-watt radio frequencies to synchronize the operation of water wells, booster pumps, tank levels, and the distribution system; and we are exploring their use for limited security aspects of our system. I'm not alone in my use of these frequencies - large systems utilize them, as well as small systems, to make their operations more efficient and help keep the cost of water from rising more than it must.

In the past, the FCC has issued these frequencies with due care for the effective operation, minimizing interference, of the radio spectrum. That appears to have changed.

Recently, a corporation (I 2 Way) has been issued coordination for over 120 frequencies within a 120 mile radius of Albuquerque ... and over 130 frequencies have been issued to the same firm within a 121 mile radius of Denver. This action will likely overload the use of the frequencies used by rural systems and others, which could result in false signals being generated and interrupting our operations. In my case, that would cover the area of Paa-ko, Sandia Park, Sedillo, Barton, Cedar Grove, and Edgewood. This is a significant issue dealing with the provision of a reliable, and safe, water supply.

I ask you inquire of the FCC the purpose of these large scale transactions with seeming lack of regard to interference with others.

Sincerely,


John L. Jones
Chief Operating Officer

Quality
On Tap!
Our Commitment Our Production